

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

-----	x	
In re:	:	
	:	Case No. 11-CV-3554-F
VITRO, S.A.B. DE C.V.,	:	
	:	Bankruptcy Court Case No. 11-33335-hdh-15
Debtor in a Foreign Proceeding.	:	
	:	
-----	x	

**FINTECH INVESTMENTS LTD.’S STATEMENT IN SUPPORT OF
EMERGENCY MOTION FOR PRELIMINARY INJUNCTION PENDING APPEAL
OF ORDER DENYING ENFORCEMENT OF MEXICAN COURT’S ORDER**

Fintech Investments Ltd. (“Fintech”), by and through its undersigned counsel, hereby submits this statement (the “Statement”) in support of the Emergency Motion of Alejandro Francisco Sánchez Mújica and Javier Arechavaleta Santos, the duly-appointed foreign representatives of Vitro, S.A.B. de C.V. (“Vitro SAB”), for a preliminary injunction pending their appeal of the order of the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) denying their motion that sought enforcement (the “Enforcement Motion”) of the order (the “Concurso Approval Order”) of the Federal District Court for Civil and Labor Matters for the State of Nuevo León, the United Mexican States (the “Mexican District Court”) approving Vitro SAB’s plan of reorganization (the “Concurso Plan”), Dkt. No. 87 (the “Preliminary Injunction Motion”). In support of this Statement, Fintech respectfully represents as follows:

1. In Vitro SAB’s Voluntary Mexican Proceeding¹, the Mexican District Court recognized Fintech as the holder of in excess of \$600 million² in claims against Vitro SAB, a

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Preliminary Injunction Motion.

substantial portion of which consisted of claims based on the Old Notes. See Concurso Approval Order, dated February 3, 2012 (English Translation), entered at the Enforcement Hearing as Vitro Ex. 150 (attached to the declaration of Louis A. Lipner, filed contemporaneously herewith (the “Lipner Declaration”), as Exhibit A) at 24. As such, Fintech was the largest individual third-party creditor in Vitro SAB’s Voluntary Mexican Proceeding.

2. Fintech voted its debts against Vitro SAB in favor of the *Concurso* Plan approved in the Voluntary Mexican Proceeding, and is bound by the terms of that plan. See Concurso Approval Order at 39 (list of creditors that executed the *Concurso* Plan includes Fintech); see also id. at 80 (holding that the *Concurso* Plan binds all recognized creditors). In addition, as the *Concurso* Plan was fully consummated and implemented on or about February 23, 2012, see Preliminary Injunction Motion ¶ 13, Fintech has received the plan consideration owed to it thereunder.

3. Fintech incorporates by reference the arguments set forth by Vitro SAB’s Foreign Representatives in support of the Preliminary Injunction Motion. In particular, as set forth in the section of the Preliminary Injunction Motion that addresses the balance of harms, see Preliminary Injunction Motion ¶ 39, as a creditor that consented to, and is bound by, the *Concurso* Plan, Fintech will be severely prejudiced if this Court does not grant the Preliminary Injunction. In the Voluntary Mexican Proceeding, Fintech was part of a group of creditors that agreed to be bound by the *Concurso* Approval Order and receive restructuring consideration at less than the full value of its claims based on the terms of the *Concurso* Plan. If the Objecting

² Under the *Ley de Concursos Mercantiles* (“LCM”), foreign currency claims are converted into Mexican Pesos and then UDIs using the equivalence in said units published by Banco de México as of the *concurso* declaration date. LCM Article 89, entered at the Enforcement Hearing as Ad Hoc Ex. 139 (an excerpt of the LCM containing Article 89 is attached to the Lipner Declaration as Exhibit B). To reverse the calculation, UDIs are converted into US Dollars by first multiplying the UDI amount by the UDI conversion rate at April 8, 2011 (the *concurso* declaration date) (4.590015). The adjusted amount is then converted from Mexican Pesos to US Dollars using the prevailing exchange rate as of the *concurso* declaration date (11.7421).

Noteholders are permitted to seek to collect preferential recoveries based on the Old Notes during the course of the pending appeals process, the benefit of the bargain struck between Vitro SAB and its creditors, which was approved by the Mexican District Court, under which creditors received new debt in a reorganized, deleveraged company will be undermined. Id. Additionally, such collection actions and the pressure they would put on Vitro SAB's business would negatively affect Vitro SAB's ability to service the new debt, thereby decreasing the value of that new debt – harming Fintech and other creditors who have agreed to comply with the Mexican District Court's *Concurso* Approval Order. See id. ¶ 33.

4. Additionally, the disruption that would be caused by such collection actions is precisely the type of chaos that the passage of chapter 15 was intended to avoid. See 11 U.S.C. § 1501(a) (including, as purposes of chapter 15, “greater legal certainty for trade and investment” and “fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor”) (emphasis added). Granting the Preliminary Injunction to maintain the status quo that was in place while the Bankruptcy Court considered the Enforcement Motion would more appropriately promote the purposes of chapter 15. Moreover, though the Objecting Noteholders continue to act in contravention of the Mexican District Court's *Concurso* Approval Order, as noted above, they too are bound by that order and have submitted themselves to the jurisdiction of the Mexican District Court. See *Concurso* Approval Order at 80.

5. For the reasons set forth above and in the Preliminary Injunction Motion, Fintech respectfully requests that the Court grant the relief requested in the Preliminary Injunction Motion.

Respectfully submitted this 26th day of June, 2012.

**STUTZMAN, BROMBERG, ESSERMAN &
PLIFKA, A Professional Corporation**

By: /s/ Briana L. Cioni

Sander L. Esserman
State Bar No. 06671500
Steven A. Felsenthal
State Bar No. 06889900
Briana L. Cioni
State Bar No. 24044161

2323 Bryan Street, Suite 2200
Dallas, TX 75201-2689
Telephone: (214) 969-4900
Fax: (214) 969-4999

-and-

Lindsee P. Granfield

**CLEARY GOTTlieb STEEN
& HAMILTON LLP**

One Liberty Plaza
New York, New York 10006
Telephone: (212) 225-2000
Facsimile: (212) 225-3999

**ATTORNEYS FOR
FINTECH INVESTMENTS LTD.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing pleading, *Fintech Investments Ltd.'s Statement In Support of Emergency Motion For Preliminary Injunction Pending Appeal of Order Denying Enforcement of Mexican Court's Order*, and *Declaration of Louis A. Lipner* in support thereof, was served this 26th day of June, 2012 via court ECF notification upon all parties entitled to receive such service and via email and/or first class mail, postage prepaid, as designated upon all parties below and on the attached service.

Dated: June 26, 2012

/s/ Briana L. Cioni

Briana L. Cioni

Service via e-mail:

Adam Lesman, Adam.Lesman@CliffordChance.com
Alan J. Stone, AStone@milbank.com
Allan Brilliant, allan.brilliant@dechert.com
Amy A. Zuccarello, azuccarello@sandw.com
Andrew Brozman, Andrew.Brozman@CliffordChance.com
Andrew M. LeBlanc, ALeblanc@milbank.com
Ben Lewis, Ben.Lewis@hoganlovells.com
Benjamin Rosenberg, benjamin.rosenberg@dechert.com
Bradley R. Foxman, bfoxman@velaw.com
Cassandra Sepanik, cassandra.sepanik@tklaw.com
Craig P. Druehl, craig.druehl@dechert.com
David Bennett, David.Bennett@tklaw.com
Dawn Costa, dcosta@jslex.com
Dennis F. Dunne, DDunne@milbank.com
Dennis Hranitzky, dennis.hranitzky@dechert.com
Edward A. Friedman, efriedman@fklaw.com
Eric Brunstad, Eric.Brunstad@dechert.com
Eric Kirsch, Eric.Kirsch@dechert.com
Erin Schmidt, erin.schmidt2@usdoj.gov
George F. McElreath, george.f.mcelreath@usdoj.gov
Holland O'Neil, honeil@gardere.com
James McGuire, James.McGuire@dechert.com
Jeanne P. Darcey, jdarcey@sandw.com
Jeff Butler, Jeff.Butler@CliffordChance.com
Jeff Prostok, jprostok@forsheyprostok.com
Jeffrey C. Fourmaux, jfourmaux@fklaw.com
Jeffrey R. Wang, jwang@fklaw.com
Jeremy Hollembeak, Jhollembeak@milbank.com
John J. Sparacino, JSparacino@andrewskurth.com
Joseph Rovira, Joseph.Rovira@andrewskurth.com
Josephine Garrett, jgarrett@jgarretlaw.com
Josiah Daniel, jdaniel@velaw.com

Katie Battaia, katie.battaia@tklaw.com
Katie Clark, Katie.Clark@tklaw.com
Katrina Pape, Katrina.Pape@dechert.com
Meredith Bloch, Meredith.Bloch@dechert.com
Nick Bassett, nbassett@milbank.com
Renee H. Sekino, RSekino@milbank.com
Richard Goldman, Richard.Goldman@dechert.com
Richard Hiersteiner, rhiersteiner@sandw.com
Richard Phillips, Rich.Phillips@tklaw.com
Risa M. Rosenberg, rrosenberg@milbank.com
Robin Keller, robin.keller@hoganlovells.com
Samir Vora, svora@milbank.com
Sandy Litvack, Sandy.Litvack@hoganlovells.com
Sarah L. Schultz, sschultz@akingump.com
Scott Reynolds, Scott.Reynolds@hoganlovells.com
Sheryl L. Toby, stoby@dykema.com
Stephen C. Stapleton, sstapleton@dykema.com
Stephen Wolpert, Stephen.Wolpert@dechert.com
Thomas J. Matz, tmatz@milbank.com
Thomas Leatherbury, tleatherbury@velaw.com
Wendy Rosenthal, Wendy.Rosenthal@CliffordChance.com

SERVICE LIST (Via First Class Mail Postage Prepaid)

Jeff P. Prostok
Lynda L. Olankford
Forshey & Prostok LLP
777 Main Street, Suite 1290
Ft. Worth, TX 76102

Joel Miller
Charles R. Jacob III
Contrarian Capital Management LLC,
on behalf of certain managed funds
411 West Putnam Ave., Suite 425
Greenwich, CT 06830

Brookville Horizons Fund, L.P.
Two Greenwich Plaza, 4th Floor
Greenwich, CT 06830-7153

Moneda S.A. Administradora de Fondos de
Inversion, on behalf of Moneda Deuda
Latinoamericana Fondo de Inversion
Isidora Goyenechea 3621
Piso 8, Las Condos
Santiago, Chile

Elliott Management Corp.
712 Fifth Ave., 35th Floor
New York, NY 10019

Lighthouse Investment Partners, LLC
3801 PGA Boulevard
Suite 500
Palm Beach Gardens, FL 33410

Allan S. Brilliant
Craig P. Druhl
Dechert LLP
1095 Avenue of the Americas
New York, NY 10036

Knighthead Capital Management, LLC
623 Fifth Avenue, Floor 29
New York, NY 10022

Davidson Kempner Capital
Management LLC
65 East 55th Street, 19th Floor
New York, NY 10022

Moneda International Inc. on behalf of
Moneda Latin American Corporate Debt
Isidore Goyenechea 3621
Piso 8, Las Condes
Santiago, Chile

FrontPoint Partners
1290 Avenue of the Americas
Floor 34
New York, NY 10104

Edward A. Friedman
Jeffrey C. Fouromaux
Friedman Kaplan Seiler & Adelman LLP
7 Times Square
New York, NY 10036-6516

Beach Point Capital Management LP
1620 26th Street, Suite 6000
Santa Monica, CA 90404

Lord, Abbett & Co. LLC
90 Hudson Street
Jersey City, NJ 07302-3973

Aurelius Capital Management, LP
535 Madison Avenue, 22nd Floor
New York, NY 10022

Permal Asset Management, Inc.
900 Third Avenue, 28th Floor
New York, NY 10022

New York Sheriffs Office
New York County
66 John Street, 13th Floor
New York, NY 10038
Attn: Julio Lopez, Deputy Sheriff
B. Waites, Deputy Sheriff

Counsel to the Ad Hoc Group:
Allan S. Brilliant
Benjamin E. Rosenberg
Craig P. Druhl
Dennis H. Hranitzky
James M. McGuire
Dechert, LLP
1095 Avenue of the Americas
New York, NY 10036

Jay L. Westbrook
727 E. Dean Keeton St.
Austin, TX 78705

Jeff P. Prostok
Forshey & Prostok, LLP
777 Main St., Suite 1290
Ft. Worth, TX 76102

Counsel for ACP Master, Ltd.
Jeff P. Prostok
Forshey & Prostok, LLP
777 Main St., Suite 1290
Ft. Worth, TX 76102

United States Trustee for the
Northern District of Texas
1100 Commerce, Room 976
Dallas Texas 75242

Jeff P. Prostok
Lynda L. Olankford
Forshey & Prostok LLP
777 Main Street, Suite 1290
Ft. Worth, TX 76102

Robin Keller
Hogan Lovells LLP
875 Third Avenue
New York, NY 10022

Andrew Brozman
Wendy Rosenthal
Clifford Chance US LLP
31 West 52nd Street
New York, NY 10019

John J. Sparacino
Andrews Kurth LLP
600 Travis, Suite 4200
Houston, Texas 77002

Normandy Hill Capital L.P.
150 E. 52nd Street
10th Floor
New York, NY 10022

Beach Point Capital Management LP
1620 26th Street, Suite 6000
Santa Monica, CA 90404

Lord, Abbett & Co. LLC
90 Hudson Street
Jersey City, NJ 07302-3973

FrontPoint Partners
Two Greenwich Plaza
Greenwich, CT 06830

Credit Agricole Corporate and
Investment Bank
Attn: Ernesto Meier
1301 Avenue of the Americas
New York, NY 10019

Holland N. O'Neil
Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201

Edward A. Friedman
Jeffrey C. Fouromaux
Friedman Kaplan Seiler & Adelman LLP
7 Times Square
New York, NY 10036-6516

Stark Investments, on behalf
of certain funds its manages
3600 S. Lake Drive
St. Francis, WI 53235

Brookville Horizons Fund, L.P.
Two Greenwich Plaza, 4th Floor
Greenwich, CT 06830-7153

Moneda S.A. Administradora de Fondos de
Inversion, on behalf of Moneda Deuda
Latinoamericana Fondo de Inversion
Isidora Goyenechea 3621
Piso 8, Las Condes
Santiago, Chile

Aurelius Capital Management, LP
535 Madison Avenue, 22nd Floor
New York, NY 10022

Santos-Elizondo-Cantu-Rivera-Gonzalez,
Parque Corporativo Valle Oriente
Ave. Pedro Ramfrez Vazquez No. 200-1
4to. Piso, Col. Valle Oriente
San Pedro Garza Garcia,
Nuevo Leon, Mexico 66269

Allan S. Brilliant
Craig P. Druehl
Dechert LLP
1095 Avenue of the Americas
New York, NY 10036

Jeanne P. Darcey
Richard Hiersteiner
Sullivan & Worcester LLP
One Post Office Square
Boston, MA 02109

Joel Miller
Charles R. Jacob III
Contrarian Capital Management LLC,
on behalf of certain managed funds
411 West Putnam Ave., Suite 425
Greenwich, CT 06830

Knighthood Capital Management, LLC
623 Fifth Avenue, Floor 29
New York, NY 10022

Davidson Kempner Capital
Management LLC
65 East 55th Street, 19th Floor
New York, NY 10022

Moneda International Inc. on behalf of
Moneda Latin American Corporate Debt
Isidora Goyenechea 3621
Piso 8, Las Condes
Santiago, Chile

Elliott Management Corp.
712 Fifth Ave., 35th Floor
New York, NY 10019

U.S. Bank National Association
Attn: Laura L. Moran
100 Wall Street, #16
New York, NY 10005-3716

Scotia Bank Inverlat, S.A., Grupo Financiero
Scotia Bank Inverlat
Attn: Eduardo Avalos Muzquiz
Blvd. Manuel Avila Camacho No 1 piso 1
Col. Lomas de Chapultepec
C.P. 11009 Mexico D.F.

VVP Europa Holdings B.V.
Weena 327, 3073
NL, Rotterdam

CT Corporation
111 Eighth Avenue, 13th Floor
New York, NY 10011

Avon
c/o Yehudah L. Buchweitz
Weil Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Catherine Harrison King
Miller & Martin PLLC
1170 Peachtree St., N.E., Ste. 800
Atlanta, GA 30309

Estee Lauder
27 Warren Street
Suite 304
Hackensack, NY 07601

GM
P. O. Box 33170
Detroit, MI 48232-5170

Goldberg Segalla LLP
11 Martine Ave., Suite 750
White Plains, NY 10606

Wilmington Trust FSB
Attn: Adam Berman
166 Mercer Street, Suite 2-R
New York, NY 10012-3249

RBS The Royal Bank of Scotland
Attn: Manuel Gomez Uriarte
Prolongacion Paseo de la
Reforma No. 600-320 Col. Santa Fe Pena
Blanca Deleg. Alvaro Obregon
01210 Mexico, D.F., Mexico

Intercompany Creditors
Attn: Javier Arechavaleta Santos
Ave. Roble #660
Colonia Valle del Campestre
Garza Garcia, N.L.
Mexico, 66265

Elton Bagley
D. F. King & Co., Inc.
48 Wall Street, 22nd Floor
New York NY 10005

Michael S. Stamer
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036

Coty, US LLC
2 Park Avenue
New York, NY 10016

Diageo North America
P. O. Box 5360
Bridgeport, CT 06610

Ford St. Thomas
P. O. Box 6089
Dearborn, MI 48121-6089

Andrew P. Keaveney
Lanman Corsi Ballaine & Ford P.C.
120 Broadway, 27th Floor
New York, NY 10271

Nestle
900 Long Ridge Road
Building 2
Stamford, CT 06902-1138

U.S. Bank Corporate Trust Services
Attn: Laura L. Moran
1 Federal Street
Boston, MA 02110-2027

Banco InveX, Institucion de Banca Multiple
Attn: Mario Esquivel
Inves Grupo Financiero
Torre Comercial America
Batalion de San Patricio 111-1202
66269, San Pedro Garza Garcia, N.L.

IP Vitro Vidrio Y Cristal, LTD
Vitro Europa, LTD
Vitro Global, LTD
Route Andre Piller 33a
1762 Givisiez
Switzerland

Cede & Co.
Attn: Legal Department
c/o Depository Trust Company
Water Street, 1SL
New York, NY 10041-0099

Office of the United States Trustee
for the Southern District of New York
Attn: Richard C. Morrissey
33 Whitehall Street, 21st Floor
New York, NY 10004

Coca-Cola Refreshments
P. O. Drawer #1734
Atlanta, GA 30301

Ryan Becker
Hunton & Williams LLP
200 Park Avenue
New York, NY 10166-0005

Peter J. Fazio
Aaronson Rappaport Feinstein
Deutsch, LLP
600 Third Avenue
New York, NY 10016

Nathaniel P. T. Read
Cohen & Gresser
800 Third Avenue
New York, NY 10022

Skyy/Campari
Attn: James McLachlan
Skky Spirits LLC
One Beach St., Suite 300
San Francisco, CA 94133

FrontPoint Partners
1290 Avenue of the Americas
Floor 34
New York, NY 10104

U.S. Trustee for the
Northern District of Texas
1100 Commerce Street, Room 976
Dallas, Texas 75242-1496

David Bennett
Katharine Battaia Clark
Cassandra A. Sepanik
Thompson & Knight LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201

Andrew M. Leblanc
Milbank, Tweed, Hadley & McCloy LLP
1850 K Street, Suite 1100
Washington, DC 20006

Rosa Rosenberg
Thomas Matz
Jeremy Hollembeak
Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005-1413